

REED INTERNATIONAL

IBLA 83-862

Decided April 6, 1984

Appeal from decision of the Eastern States Office, Bureau of Land Management, rejecting noncompetitive acquired lands oil and gas lease offer ES 29183.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Known Geologic Structure--Oil and Gas Leases: Noncompetitive Leases

A known geologic structure is a trap, either structural or stratigraphic in nature, in which an accumulation of oil or gas has been discovered by drilling and determined to be productive, and which includes all acreage that is presumptively productive.

2. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Known Geologic Structure--Oil and Gas Leases: Noncompetitive Leases

Land within a known geologic structure of a producing oil or gas field may only be leased after competitive bidding.

3. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Known Geologic Structure--Oil and Gas Leases: Noncompetitive Leases

An applicant for a noncompetitive acquired lands oil and gas lease who challenges a determination by BLM that land is within the known geologic structure of a producing oil or gas field has the burden of showing that the determination is in error.

APPEARANCES: Larry Reed, president, Reed International, and Marc E. Bradley, Esq., Fairhope, Alabama, for appellant; Piete Van Zanden, Acting State Director, Eastern States Office, Alexandria, Virginia, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

Reed International appeals from a decision dated April 20, 1983, of the Eastern States Office, Bureau of Land Management (BLM), rejecting its noncompetitive acquired lands oil and gas lease offer ES 29183. Appellant filed its offer on August 28, 1981, to lease 86 acres in T. 9 S., R. 1 W., St. Stephens, Dauphin Island, Mobile County, Alabama. BLM rejected the lease offer on the ground that lands requested were within a known geologic structure (KGS) of a producing oil or gas field and therefore not available for noncompetitive leasing. The decision is supported by a May 20, 1981, memorandum of the Director, Geological Survey, 1/ stating as follows:

Based upon a gas discovery in Mobile Bay, Alabama the following described lands have been placed in the Lower Bay Undefined KGS, effective April 24, 1981.

Mobile Co., Alabama
Submerged Alabama State Oil Lease Tract
Block 76, S 1/2
Block 94, N 1/2
Total area: 5,164 acres

A small U.S. military reservation on the east tip of Dauphin Island, Alabama lies entirely within this KGS, and because of the tremendous potential for the discovery of underlying gas reserves, this acreage should be made available for competitive leasing immediately.

The lands sought by appellant lie entirely within the above-described 5,164-acre tract.

Appellant filed a notice of appeal on May 23, 1983, and a statement of reasons on July 18, 1983. Appellant's reasons for appeal are discussed below.

On November 17, 1983, this Board issued an order requesting that an answer be filed by BLM. BLM did so on December 15, 1983. 2/ The Board was not certain that BLM served appellant with a copy of this answer and, therefore, sent a copy to appellant on December 16, 1983. The return receipt for

1/ By Secretarial Order No. 3071 published in the Federal Register on Feb. 2, 1982, 47 FR 4751, the Secretary created the Minerals Management Service (MMS) to, inter alia, take over the functions of the Conservation Division, Geological Survey. Secretarial Order No. 3087, dated Dec. 3, 1982, consolidated the onshore mineral leasing functions of the MMS within BLM. 48 FR 8982 (Mar. 2, 1983). Further reference in the decision will be to Geological Survey, since the Conservation Division, Geological Survey, was in existence during the relevant determination.

2/ While, under 43 CFR 4.414, it is not necessary to file an answer, when an appellant raises issues of fact, it is difficult to rule fairly and impartially with respect to these questions of fact if no answer is filed.

the letter enclosing the answer shows that the answer was received by appellant on December 24, 1983. On January 16, 1984, appellant requested an extension of time in which to file a response. Appellant was given until February 20, 1984, to file its response, but no response has been received. 3/

Appellant challenges the determination that the lands are within a KGS. Appellant asserts that the blocks established by the State of Alabama for the purpose of leasing do not correspond to a known geologic structure. Appellant further asserts that a fault lies between the discovery well and the acreage sought. In support of this contention, appellant has submitted a Norphlet Sandstone Structure Map which appellant claims represents the geology in the area of the lands sought by appellant. Appellant also suggests that the area is not considered to be a KGS by a major oil company planning to drill in the area of the lands sought by appellant.

The answer filed by BLM states that the Lower Mobile Bay Field undefined KGS was identified by Geological Survey on May 20, 1981, on the basis of the initial completion of the MOEPSI #76-1 well on State lease 347. The area of the KGS identified by Geological Survey is 5,164 acres, covering the south half of Block 76 and the north half of Block 94. 4/ According to BLM, the subsequent drilling and testing of the MOEPSI #94-2 well on State lease 349 confirmed the Geological Survey's determination that the north half of Block 94 was presumptively productive. BLM acknowledges that drilling in the immediate area has temporarily ceased, but notes that all previous attempts have been successful, and thus concludes that no revision of the KGS is necessary.

In particular response to the contention by appellant that the tract sought has been isolated from the main producing structure by a fault, the answer by BLM first notes that the existence and placement of this fault appears to have been determined by deep seismic data unavailable to the Government at the time of the KGS determination. BLM further states, however, that the opinion of expert Departmental personnel is that appellant's interpretation of the seismic data at the depth of the structure is speculative

3/ Appellant asked that it be given 90 days in which to respond. This Board routinely grants 30-day extensions, but will give longer extensions if cause is shown. Appellant did not provide sufficient reason for a longer extension and no further request for an extension was timely made.

On Mar. 16, 1984, the Board received a letter from Marc E. Bradley, Esq., on behalf of appellant, requesting another opportunity to present evidence in support of the appeal. The letter provided no indication of the nature of the evidence that might be adduced by appellant. For this reason, and because the Board had already proceeded to address the appeal on the record before it, the Board hereby denies the request.

4/ In contrast, the drilling and production unit for the MOEPSI #76-1 well designated in the State of Alabama and Gas Board Order No. 82-144, dated July 22, 1982, is the 5,164-acre area of Block 76.

and unreliable, considering the size of the fault depicted in relation to its depth. 5/

[1, 2] A KGS is a trap, either structural or stratigraphic in nature, in which an accumulation of oil or gas has been discovered by drilling and determined to be productive, and which includes all acreage that is presumptively productive. Hepburn T. Armstrong, 72 IBLA 329 (1983). Lands within a KGS may be leased only after competitive bidding. 30 U.S.C. § 226(b) (1976). A noncompetitive oil and gas lease offer must be rejected where, at any time prior to the issuance of the lease, the land to be leased is determined to be within the KGS of a producing oil or gas field. McDade v. Morton, 353 F. Supp. 1006 (D.D.C. 1973), aff'd, 494 F.2d 1156 (D.C. Cir. 1974); Peter Zamarello, 71 IBLA 39 (1983).

[3] An appellant for a noncompetitive oil and gas lease who challenges a determination by BLM that the land is within the KGS of a producing oil or gas field has the burden of showing that the determination is in error. Angelina Holly Corp., 70 IBLA 294 (1983). Appellant contends that the designation of State leasing blocks as the boundaries of the KGS is arbitrary but has not demonstrated that another designation would not be arbitrary. 6/ The definition of the boundaries of a KGS is in most cases somewhat arbitrary. It can be easily recognized that a geologic structure will seldom, if ever, be in the shape of a square or a rectangle with its sides running in the cardinal directions. So long as there is a reasonable relationship between the size and location of the KGS and the tract designated as a KGS, this Board will uphold the determination by BLM. See, Robert G. Lynn, 61 IBLA 153 (1982). Appellant has not demonstrated that the size or shape of the designated KGS is, per se, unreasonable.

Appellant further argues that the tract requested is isolated by a fault from the structure that has been determined to be productive, but appellant has not offered any evidence regarding the thickness of the Norphlet production zone and its relationship to the offset of the fault. The fault structure described by appellant is small and is shown merely on the basis of interpretation of seismic data generated at great depths. It is not shown in appellant's evidence that, assuming that the fault does exist, it has isolated the Norphlet production zone from the lands sought by appellant. We, therefore, conclude that appellant has not carried its burden of proof.

5/ The map submitted with appellant's statement of reasons is a contour map of the Norphlet structure. On this map the fault structure identified by appellant is depicted as being at a depth ranging from approximately 20,500 to 20,900 feet. The fault is a normal fault with the downdropped block being offset approximately 200 feet. The tract sought is on the downdrop side of the fault.

6/ Moreover, contrary to appellant's assertion, Geological Survey did not designate the entirety of State leasing Block 76 and Block 94 as the KGS. Rather, the KGS designation covers the south half of Block 76 and the north half of Block 94. Thus, the KGS designation does not simply correlate with the state leasing divisions.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

R. W. Mullen
Administrative Judge

We concur:

Wm. Philip Horton
Chief Administrative Judge

Bruce R. Harris
Administrative Judge

